

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK
4 14-CV-9148 (AT)

5 - - - - - x

6 BENJAMIN CASE, ELIZABETH CATLIN,
7 JENNIFER KLEIN, and MARK KUSHNEIR,

8 Plaintiffs,

9 - against -

10 THE CITY OF NEW YORK, et al,

11 Defendants.

12 - - - - - x

13 August 31, 2017
14 10:33 a.m.
15 100 Church Street
16 New York, New York

17 DEPOSITION of LIEUTENANT LAWRENCE PAPOLA, a
18 defendant, in the above-entitled action, held at the
19 above time and place, taken before Melissa A. Diaz,
20 a Notary Public of the State of New York, pursuant
21 to the Federal Rules of Civil Procedure, Notice and
22 stipulations between counsel.

23 * * * * *

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A P P E A R A N C E S :

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S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED, by and among counsel for the respective parties hereto, that the filing, sealing and certification of the within deposition shall be and the same are hereby waived;

IT IS FURTHER STIPULATED AND AGREED that all objections, except as to form of the question, shall be reserved to the time of the trial;

IT IS FURTHER STIPULATED AND AGREED that the within deposition may be signed before any Notary Public with the same force and effect as if signed and sworn to before the Court.

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PAPOLA

(Memo Book Entry was hereby marked as
Papola Exhibit Number 1 for identification.)

(Resume was hereby marked as Papola
Exhibit Number 2 for identification.)

(Form was hereby marked as Papola Exhibit
Number 3 for identification.)

L A W R E N C E P A P O L A, after having first
been duly sworn by a Notary Public of the State of
New York, was examined and testified as follows:

EXAMINATION BY

MR. OLIVER:

Q Please state your name for the record.

A Lieutenant Lawrence Papola.

Q What is your present home address?

A Business Address: 1 Police Plaza, New
York, New York 10038.

MR. OLIVER: Good morning. My name is
Gideon Oliver. I represent the plaintiffs in
the underlying lawsuit that brings you here
today in which you are named as a defendant.
I'm going to take you through some ground rules
with respect to the deposition today. For
starters, please answer each of my questions
verbally because the court reporter can't take

1 PAPOLA

2 downs nods, gestures or otherwise, okay?

3 THE WITNESS: Yes.

4 Q If you don't hear any of my questions,
5 will you tell me so?

6 A Yes.

7 Q If you don't understand any of my
8 questions, will you tell me so?

9 A Yes.

10 Q If you give an answer and later in the
11 deposition you want to revisit it for any reason,
12 will you tell me so?

13 A Yes.

14 Q Is there any reason that you cannot
15 testify fully and accurately today?

16 A No.

17 Q Do you have any physical or mental
18 conditions that might keep you from testifying fully
19 and accurately today?

20 A No.

21 Q Have you taken any sort of medication
22 today that might keep you from testifying fully and
23 accurately?

24 A No.

25 Q Were you supposed to take medication today

1 PAPOLA

2 that you did not take?

3 A No.

4 Q Do you understand you've taken an oath to
5 tell the truth today?

6 A Yes.

7 Q You understand that even though we're here
8 in a conference room, it's basically the same oath
9 that you take when you go to court to testify?

10 A Yes.

11 Q Are you represented by counsel today?

12 A Yes, I am.

13 Q Is that your attorney seated to your
14 right?

15 A Yes.

16 MR. OLIVER: Indicating Ms. Robinson.

17 Q Have you ever been deposed before?

18 A A long time ago, yes, I have.

19 Q How many times?

20 A Twice I think.

21 Q When was the first time?

22 A First time I think I was 12 or 13 years
23 old. It was a civil lawsuit.

24 Q I don't need to know about it.

25 The second time, when was it?

1 PAPOLA

2 A I don't recall.

3 Q Was the second time in connection with
4 your duties as a police officer?

5 A Yes. It was a trial from when I got
6 assaulted actually.

7 Q Were you a plaintiff or a defendant in
8 that --

9 A Plaintiff.

10 Q -- lawsuit?

11 You were a plaintiff.

12 A Oh, it wasn't a lawsuit. I'm sorry. It
13 was actually the actual criminal trial. So that's
14 it.

15 Q So you testified in a criminal trial, but
16 you did not give a deposition --

17 A No.

18 Q -- in this?

19 You were deposed one time when you were 12
20 or 13 years old and I don't need to know anything
21 about that.

22 What is your highest level of education?

23 A Bachelor's degree.

24 Q Where did you get your bachelor's?

25 A SUNY College at Oneonta.

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PAPOLA

Q What did you study there?

A Business economics.

Q When did get your BA?

A BS.

Q BS, I'm sorry.

A '94, May of '94.

Q What's your current shield number? Oh,
you're retired?

A I'm retired.

Q Congratulations.

What was your shield number when you were
still on the job?

A Lieutenants don't have shield numbers.

Q What was your shield number as a sergeant?

A Oh my God.

Q If you remember?

A 3646.

Q What about as a police officer?

A 4918.

Q When you were a PO, was it always 4918?

A Yes.

Q When were you appointed to the department?

A June 30, 1995.

Q Before you were appointed to the

1 PAPOLA

2 department did you ever serve in the military?

3 A No.

4 Q Before you were appointed to the
5 department did you ever work security?

6 A No.

7 Q How long were you at the academy?

8 A Nine months.

9 Q Do you know why you were at the academy
10 for more than six months?

11 A We were the first class that they
12 experimented with. They actually gave us our guns
13 and shields and sent us out for field training and
14 then brought us back for another three months.

15 Q Oh wow.

16 A Yeah. They never did it again after us I
17 don't think.

18 Q Then what was your first command out of
19 the academy?

20 A I was assigned to the 69th Precinct.

21 Q When did you leave the 69 for your next
22 command?

23 A Well I was assigned temporarily to the
24 Prospect Park summer detail. That was 1997, and I
25 went back the same year.

1 PAPOLA

2 Q Then after that what was your next
3 command?

4 A I left the 69 in 1999 and went to the
5 Brooklyn South Task Force.

6 Q How long were you at the task force?

7 A About six years.

8 Q What was your next command after the task
9 force?

10 A I got promoted to sergeant, I went to,
11 it's called, BMO. That was in August of 2005. I --
12 when I left BMO -- when I got promoted, I went to
13 Transit District 30 in August of 2005.

14 Q Borough of Manhattan?

15 A No. It's Borough of Brooklyn.

16 Q What does BMO stand for?

17 A It's basic management orientation.

18 Q When did you make sergeant?

19 A 2005, August.

20 Q How many times did you take the test
21 before you made sergeant?

22 A Three times.

23 Q Did you work the RNC in 2004?

24 A Yes, I did.

25 Q Generally speaking what were your duties

1 PAPOLA

2 in the RNC in 2004?

3 A Task force. I was with the Brooklyn South
4 Task Force at that time.

5 Q Were you part of any arrest teams during
6 the RNC in 2004?

7 A I did not make any arrests during the RNC.

8 Q How long were you at TD 30?

9 A From August of '05 to July of 2011.

10 Q Then what was your next command?

11 A I went to disorder control.

12 Q When you went to the DCU, who was the
13 commanding officer?

14 A Captain Anthony Raganella.

15 Q R-A-G-A-N-E-L-L-A.

16 So you were never in the DCU when Chief
17 Graham was there?

18 A Nope.

19 Q When I refer to the date of the incident,
20 I'm referring to November 17, 2011, okay?

21 A Okay.

22 Q On the day of the incident was the DCU
23 your command?

24 A Yes.

25 Q Then what was your next command after the

1 PAPOLA

2 DCU?

3 A I got promoted in December of 2011 to
4 lieutenant and I went to -- back to BMO again for
5 two weeks. And then I was assigned to the 33
6 Precinct in Washington Heights.

7 Q Then did you work at any other commands
8 after the 33rd --

9 A Yes.

10 Q -- before you retired?

11 A I did. My next command after that was
12 Viper 14 which fell under PSA 9 in Queens.

13 Q What was your next command after that?

14 A That was it. That was when I retired.

15 Q When did you retire?

16 A My last official day on the books was
17 January 31, 2016.

18 Q Have you ever been sued as a police
19 officer --

20 A I was.

21 Q -- in a civil suit?

22 A Yes.

23 Q How many times?

24 A Aside from this I think there was only one
25 other time.

1 PAPOLA

2 Q What can you tell me about that other
3 lawsuit?

4 A I don't know how it -- how it was disposed
5 of. I never found out.

6 Q Do you remember what year it was brought?

7 A No. I don't remember.

8 Q Do you remember what decade it was in?

9 A It was right around the end of the '90s
10 and 2000s. I don't exactly recall the exact date.

11 Q Do you remember anything about the
12 allegations in the lawsuit?

13 A I think it was allegations of false
14 arrest. It was from a vehicle checkpoint that I
15 arrested someone for driving with a suspended
16 license.

17 Q Who represented you in that lawsuit?

18 A Corporation counsel.

19 MR. OLIVER: I will follow up in writing,
20 but I will call for production for the caption
21 of that prior lawsuit.

22 MS. ROBINSON: Noted.

23 Q You weren't deposed in that lawsuit?

24 A No.

25 Q Did you meet with your attorney to prepare

1 PAPOLA

2 for the deposition today?

3 A Yes, I did.

4 Q How many times?

5 A Once.

6 Q When was that meeting?

7 A August 22nd.

8 Q How long was the meeting?

9 A A couple of hours I think.

10 Q More than two hours you think?

11 A I don't remember.

12 Q Was Ms. Robinson in --

13 A Yes.

14 Q -- that meeting?

15 Was there anyone else aside --

16 A No.

17 Q -- from the two of you?

18 I'm not going to ask you to reveal the
19 contents of any communications that you had with
20 your attorney so don't please, understood?

21 A Yes.

22 Q Did you review any documents to prepare
23 for your deposition today?

24 A I sign -- yeah. I reviewed something. I
25 don't remember exactly what it was.

Page 15

1 PAPOLA

2 MR. OLIVER: Would you mind marking this
3 (handing)?

4 (Verification was hereby marked as Papola
5 Exhibit Number 4 for identification.)

6 MR. OLIVER: I'm handing the witness
7 what's been marked as Papola 4 (handing).

8 Please let me know when you've had a
9 chance to review that.

10 THE WITNESS: Sure. No problem.

11 Q You've had an opportunity to review that?

12 A Yes.

13 Q When I asked you a question earlier about
14 documents that you reviewed to prepare for your
15 deposition, you said you had reviewed something. Is
16 this the document --

17 A Yes.

18 Q -- you reviewed?

19 A Yes.

20 Q Aside from that document did you review
21 any other documents to prepare for the deposition?

22 A My disciplinary record and just the memo
23 book entries. That was I believe it.

24 MR. OLIVER: I'm going to show you what's
25 been marked as Papola 1 (handing).

1 PAPOLA

2 I'm going to ask you to review that and
3 let me know when you've finished.

4 THE WITNESS: Yes.

5 Q Is this the memo book entry that you
6 reviewed?

7 A Yes.

8 Q Did reviewing the memo book entry refresh
9 your recollection about any of the events of the
10 date of this incident?

11 A Not really.

12 Q While we're on it would you mind flipping
13 that so you can --

14 A Oh, sure.

15 Q Just so I am sure I have your handwriting
16 correct, the top entry indicates Thursday, November
17 17, 2011 and the next entry 04:00 by 12:57 hours.
18 Is that the tour you were working?

19 A That was the tour I was assigned that day,
20 yes.

21 Q The next line says DCU. What comes next?

22 A Citywide response supervisor.

23 Q What are the responsibilities of the
24 citywide response supervisor?

25 A We respond to wherever there's a, you

1 PAPOLA

2 know, an incident where DCU is called to assist the
3 PD or to provide logistical support for the task
4 forces. We really dealt with most of the task
5 forces, not, you know, regular patrol cops. That
6 was -- that day we were assigned -- we had been
7 assigned to the Occupy Wall Street protests since
8 the beginning.

9 You know, that day we just happened to be
10 assigned to the counter-protest that they staged
11 after they had been removed from Zuccotti Park I
12 think is what it's called.

13 Q Then the next entry from your memo book
14 entry says 04:00 hours, right?

15 A Yeah. That's when I was present for duty
16 at DCU up in the Bronx.

17 Q DCU is on Randall's Island?

18 A No. When I was --

19 Q Sorry. Where is the DCU?

20 A When I was there, it was on Sedgwick.

21 Q Right. Sorry.

22 Before the RNC did you participate in any
23 disorder control training in 2004?

24 A Oh yes.

25 Q Did you do disorder control training on

1 PAPOLA

2 Randall's Island --

3 A I don't recall.

4 Q -- if you remember?

5 A I don't remember.

6 Q What do you remember about that disorder
7 control training, about what the contents of the
8 training were?

9 A The only thing -- all I remember learning
10 the lines and the wedges, learning the arrest team,
11 how the arrest team works. Don't really remember
12 anything else. It was a long time ago.

13 Q Fair enough. Understood.

14 Going back to the memo book entry: At 530
15 84 means what?

16 A We were present at the forward command
17 post at Barclay Street and I think it's Avenue B.

18 Q Could that be Broadway even though it just
19 says B apostrophe? Because I don't know if Barclay
20 Street and Avenue B connect.

21 A It could be. It's a long time so ...

22 Q Of course.

23 FCP, does that stand for a forward command
24 post or a field command post, if you know, if you
25 remember?

1 PAPOLA

2 A It could be either/or, field command
3 post -- I think it's field command post. I'm pretty
4 sure. Forward, field, I get, you know ...

5 Q On the date of incident was there a field
6 command post or a THB that was operational related
7 to the incident?

8 A Yes.

9 Q Do you remember where that was?

10 A No.

11 Q Did you visit that FCP or THB --

12 A I don't --

13 Q -- on the date of incident?

14 A I don't recall.

15 Q Then next and final entry in your memo
16 book says 20:57 EOT, end of tour?

17 A Yes.

18 Q And it says Sergeant Padilla?

19 A No. It's Papola.

20 Q That's you?

21 A That my chicken scratch.

22 Q I apologize.

23 A That's okay.

24 Q I thought maybe a sergeant assigned --

25 A No. That's me. We sign out our own

1 PAPOLA

2 books.

3 Q So that indicates that your tour ended --

4 A Yes.

5 THE STENOGRAPHER: I just need for you to
6 wait for him to finish the question.

7 THE WITNESS: I'm sorry.

8 Q It indicates your tour ended at 20:57,
9 right?

10 A (Witness nods head.)

11 Q You have to answer verbally.

12 A Oh yes. I'm sorry.

13 Q Thank you. I'll take the memo book entry
14 back.

15 In addition to the memo book entry, the
16 disciplinary entry and the verification that's in
17 front of you did you review any other documents to
18 prepare for the deposition? I'll ask you separately
19 about photos and video.

20 A No, no other document -- no other
21 documents.

22 Q Do you know who Benjamin Case is?

23 A No.

24 Q Do you know what Benjamin Case looks like?

25 A No.

1 PAPOLA

2 MR. OLIVER: I'm showing the witness --
3 this was marked yesterday I think but I can't
4 right now found the marked number.

5 MS. ROBINSON: Need some help?

6 MR. OLIVER: Yes, please.

7 MS. ROBINSON: This is Downes number 6, a
8 Polaroid.

9 MR. OLIVER: Thank you. I appreciate it.
10 I'm showing the witness what has been
11 previously marked as Downes 5 and Downes 6
12 (handing).

13 I'm going to ask you to review these
14 photos and directing your attention
15 particularly to the non-police person who I'm
16 pointing to with my pen now. In both of the
17 pictures I represent to you that that's
18 Benjamin Case.

19 Q Having reviewed those photographs -- have
20 I given you enough time to review them?

21 A Yeah.

22 Q Having reviewed those photographs did you
23 review either of those to prepare for your
24 deposition today?

25 A These photographs?

1 PAPOLA

2 Q Yes.

3 A No. I didn't review these photographs.

4 Q Sitting here today having reviewed this
5 photograph of a person I'm representing to you as
6 Benjamin Case do you have any personal knowledge
7 about Mr. Case's conduct that led up to his arrest?

8 A No.

9 MR. OLIVER: I'll take those pictures
10 back.

11 THE WITNESS: (Handing).

12 Q You were not present at 1 Police Plaza
13 related to arrest processing on the date of the
14 incident --

15 A No.

16 Q -- were you?

17 Did you review any photographs to prepare
18 for the deposition?

19 A Photographs?

20 Q Yes.

21 A No. I didn't review any photographs.

22 Q I apologize if I asked you that already.

23 A That's okay.

24 Q Did you view any videos to prepare for the
25 deposition?

1 PAPOLA

2 A Yes.

3 Q How many videos did you view?

4 A I think it was one video.

5 Q Was it a TARU video, capital T-A-R-U?

6 A Yes. It was a TARU video.

7 Q Do you know who the videographer was?

8 A No, I don't.

9 Q Directing your attention back to this
10 exhibit, Downes 5. This appears to be, according to
11 its face, is a TARU still from TARU Videographer
12 Rivera. Do you know if this is a still from the
13 video that you watched?

14 A I don't recall.

15 Q Fair enough.

16 How long was the video that you watched?

17 A I don't recall.

18 Q Was it more than five minutes?

19 A I don't recall.

20 Q How much total time did you yourself spend
21 watching the video?

22 A I don't remember.

23 Q Was it more than five minutes?

24 A I don't remember.

25 Q Was it more than one minute?

1 PAPOLA

2 A I really don't remember. I honestly don't
3 remember.

4 Q You saw yourself on the video?

5 A Yes. I did see myself.

6 Q You saw then Captain, now Deputy
7 Inspector, Raganella on the video?

8 A Yes.

9 Q Who else did you see that you recognized
10 in the video?

11 A Just myself and then Captain Raganella. I
12 don't remember if there was any other bosses. I
13 don't -- you know, I was just focused on what I was
14 doing.

15 Q You saw yourself in the video giving an
16 arrest warning; is that right?

17 A Giving the orders to disperse I believe.

18 Q What's the difference between an order to
19 disperse and an arrest warning, if there is one to
20 you?

21 A I really don't think there's a difference.
22 I don't remember the exact wording because I was
23 reading it off a card that day too.

24 Q Where did you get the card?

25 A I don't remember who handed it to me.

1 PAPOLA

2 Q But someone --

3 A Someone gave it to me.

4 Q The card says what in sum and substance?

5 A That if you're interfering with a public
6 street or a public sidewalk and if you do not
7 disperse, you are subject to arrest action. That's
8 just going by memory.

9 Q Right. That's not word for word --

10 A No.

11 Q -- what's on the card?

12 MR. OLIVER: I will call for production of
13 a copy of the dispersal order card. I will
14 follow up with that in writing.

15 MS. ROBINSON: Noted.

16 Q Were you involved in any arrests at that
17 location?

18 A No.

19 Q Do you know who Officer Darnell Downes is?

20 A Nope.

21 Q Do you know who Officer Benjamin Almonte
22 is?

23 A No.

24 Q Do you know who Officer Dawn Braccio,
25 B-R-A-C-C-I-O, is?

1 PAPOLA

2 A No.

3 Q Do you know who Officer Brian Koch,
4 K-O-C-H, is?

5 A No.

6 Q Did reviewing the videos that you reviewed
7 refresh your recollection about any of the events of
8 the day of the incident?

9 A A little bit.

10 Q Tell me what you mean.

11 A Just now I -- seeing the video I saw
12 myself giving the orders. I know that we had a
13 large crowd. I can't tell you how many, and I
14 remember that they were blocking the street, they
15 were blocking people from getting into their
16 buildings for their places of work. It was a very
17 unruly, rowdy crowd. That's really about it.

18 Q You never saw Mr. Case as part of that
19 crowd, correct?

20 A No.

21 Q When you say "large crowd," I know you
22 said that you couldn't tell me how many but without
23 asking you to guess, can you estimate how many
24 you're saying were in the large crowd?

25 A No, I can't.

1 PAPOLA

2 Q Was it more than ten people?

3 A Yes.

4 Q Was it more than a hundred people?

5 A Yes.

6 Q When you say a large crowd, do you mean a
7 large crowd of people you perceived to be
8 protesters?

9 A Yes.

10 Q When you say a large crowd, were you also
11 counting police who were present at that location?

12 A No. We usually only count the amount of
13 protesters, not the amount of police present when
14 we're doing crowd estimates.

15 Q Aside from the ways that you've just told
16 me are there any other ways that viewing the video
17 refreshed your recollection about events of the date
18 of the incident?

19 A Not really, no.

20 MR. OLIVER: This portion of the
21 deposition I'm going to designate confidential.

22 (Confidential testimony begins on page 27
23 and ends on page 32.)

24 Q Have you ever been the subject of a CCRB
25 complaint?

1 PAPOLA

2 A No.

3 Q Have you been brought up on charges and
4 specs?

5 A No.

6 Q Have you ever received a command
7 discipline?

8 A I have.

9 Q For what?

10 A I lost a prisoner once back in 1997.

11 Q Anything else?

12 A I have gotten other command disciplines,
13 but I don't recall for what. It's been a long time.

14 Q Approximately how many aside from the one
15 in '97?

16 A Two or three others.

17 Q Of the two or three others do you remember
18 anything that you can tell me sitting here today
19 about the first?

20 A No.

21 Q Of the two or three others do you remember
22 anything sitting here today about the second?

23 A No, I don't.

24 Q What about the third?

25 A No.

1 PAPOLA

2 Q You can't tell me sitting here today if
3 any of those command disciplines had anything to do
4 with failure to perform a required duty or with
5 allegations of falsehood or dishonesty?

6 A No.

7 MR. OLIVER: I'm going to show you what's
8 been marked as Papola 2. It's D 113. It's a
9 confidential document (handing).

10 Let me know when you've reviewed that,
11 please.

12 THE WITNESS: Okay.

13 Q Is that a document that you reviewed to
14 prepare for your deposition?

15 A I don't recall. I don't remember. I
16 think I might have.

17 Q Do you know what that entry refers to?

18 A No, I don't. July 18 -- July 8, 1999?
19 No.

20 Q I'll take that back.

21 Is it possible -- unless to want to look
22 at it more.

23 A No. There's nothing really there.

24 Q Is it possible that this July 8, 1999
25 incident has to do with the lawsuit that you were a

1 PAPOLA

2 defendant in, if you know?

3 A No, I don't think -- no. I don't think
4 so.

5 MR. OLIVER: I'm going to call for
6 production of a closing report and other
7 records regarding IA number 99-12100, and I
8 will follow up with that.

9 MS. ROBINSON: Noted.

10 MR. OLIVER: I'm going to show the witness
11 what's been marked as Papola 3. It's D 388
12 through 390. I'm going to ask you to review
13 that and let me know when you've finished.

14 THE WITNESS: This is all my training and
15 stuff. This is all my department training I
16 received throughout my career.

17 Q Is that a document that you reviewed to
18 prepare for your deposition?

19 A Yes, it is actually.

20 Q So you reviewed this document, you
21 reviewed your memo book entry and you reviewed the
22 verification that's in front you. Did you review
23 Papola 2?

24 MR. OLIVER: I'm putting it back in front
25 of the witness.

1 PAPOLA

2 A Yes, I did. I actually did. All right.
3 I remember now.

4 MR. OLIVER: Thank you.

5 This Papola 3 indicates that you received
6 disorder control training in June of 2012. I'm
7 going to hand it back to you.

8 Q I ask if there's anywhere else that you
9 can identify for me in this transcript where it
10 indicates that you received any training related to
11 disorder control or policing First Amendment
12 assemblies.

13 A No, nowhere else. Oh, the only other
14 place it could have been is command-level training.
15 Because when I was in task force, we used to
16 practice disorder control techniques for the
17 entire -- you know, we always had disorder control
18 training when I was part of the task force.

19 Q Who conducted that training, if you know?

20 A Either -- we either went up to DCU for the
21 training or it was down at the command level. You
22 know, we had a training sergeant that would conduct.

23 Q I take it records -- do you know where
24 records regarding that training would be, if
25 anywhere, at the command level?

1 PAPOLA

2 A At the command level, if they still have
3 them? Doubt it.

4 MR. OLIVER: So ends the confidential
5 portion of the deposition.

6 (Confidential testimony ends.)

7 MR. OLIVER: You want a break?

8 THE WITNESS: I need to go to the
9 bathroom.

10 MR. OLIVER: Of course. Any time you want
11 a break, it's fine by me.

12 (A recess was taken.)

13 Q Directing your attention to the date of
14 the incident: When you mustered or when you turned
15 out at the DCU, was there a roll call?

16 A I don't recall.

17 Q Do you recall what your assignment was
18 when you -- on the morning of the date of the
19 incident?

20 A Just that we were responding there as a
21 team, you know, Captain Raganella, myself and I
22 don't recall who else was with us. I believe -- I
23 don't remember which POs were with us that day.

24 Q Where did you go after you left the DCU?

25 A We responded down to the field command

1 PAPOLA

2 post.

3 Q How did you get there?

4 A I don't know what vehicles we took. We
5 took police department vehicles.

6 Q Were you in the same vehicle as Captain
7 Raganella?

8 A I don't recall.

9 Q How did you receive notification to go to
10 that location, if you remember?

11 A I don't remember. I don't recall.

12 Q What happened next after you arrived at
13 the location?

14 A I don't recall.

15 Q What's the next thing you do recall about
16 the events of that day?

17 A Just from watching the video the only
18 other thing I recall is actually giving the order.
19 That's it. And then, you know, everybody else did
20 what they were -- you know, all the other police
21 officers or whatever, they did what they were
22 supposed to do.

23 Q What do you mean they did what they were
24 supposed to do?

25 A They -- if there was an arrest to be made,

1 PAPOLA

2 they made it. I had no involvement in any arrests
3 or anything like that.

4 Q Did you yourself decide to give the orders
5 that you gave, or were you directed by a supervisor
6 to give the order?

7 A I was -- I believe I was directed by a
8 supervisor. I didn't -- I couldn't do that upon
9 myself if that's what you're asking. No, I couldn't
10 take that upon myself.

11 Q And why not?

12 A Above my pay grade.

13 Q I just want to make sure I understand that
14 colloquial answer a little bit more formally: At
15 the location where you gave the orders there were
16 several higher-ranking officers --

17 A Yes.

18 Q -- right?

19 One of them was the commanding officer of
20 disorder control unit at the time, right?

21 A Yes.

22 Q Captain Raganella?

23 A Captain Raganella.

24 Q In such situations is it usually the
25 supervisors who make determinations about whether to

1 PAPOLA

2 give dispersal orders as opposed to the higher-level
3 supervisors?

4 A It's the higher-level supervisors that
5 make that determination.

6 Q Do you know who the incident commander was
7 regarding this incident?

8 A I don't recall.

9 Q Do you know who the highest-ranking
10 officer on the scene at the location where you gave
11 the orders was?

12 A I don't recall.

13 Q Sitting here today do you know of any
14 higher-ranking officers that were at the scene than
15 Captain Raganella?

16 A Were there higher-ranking officers other
17 than him? Is that what you're asking?

18 Q Yes, that you remember.

19 A Yes. There were other ranking officers
20 higher than him that were higher than a captain.

21 Q Sitting here today can you tell me who any
22 of those officers were?

23 A I could not. I don't recall.

24 MR. OLIVER: I'm going to show you what's
25 been marked as Plaintiff's 10 and Plaintiff's

1 PAPOLA

2 3. I'm going to ask you to review both of
3 these records. Actually I'll also show you
4 Plaintiff's 4, so that's 3, 4 and 10. I'm
5 going to ask you to please review each of those
6 records.

7 Q Let me know if any of those records
8 refreshes your recollection about any other officers
9 who were present at the location where you gave the
10 dispersal orders?

11 A Want me to read all of these before ...

12 Q You've just finished reviewing which one?

13 A 3.

14 Q Did reviewing 3 refresh your recollection
15 regarding the question that I asked?

16 A What was the question? Could you repeat
17 the question?

18 MR. OLIVER: Could you?

19 (The requested portion was read.)

20 A It doesn't refresh my recollection. The
21 only thing I can tell you that if these officers
22 were -- if the higher-ranking bosses are listed
23 here, then they were most likely at the locations.
24 I can't tell you if I personally saw them or not or
25 if I remember seeing them.

1 PAPOLA

2 Q Okay. That's fair enough. Please move
3 onto the next document.

4 A I reviewed this one too.

5 Q When you say "this one," could you just --

6 A Sorry. Plaintiff's 4.

7 Q Did reviewing Plaintiff's 4 refresh your
8 recollection about any officers who were present at
9 the location where you gave dispersal orders?

10 A No, it did not.

11 Q You see on the first page there where it
12 refers to 15 arrests that were made at the location?

13 A Well it gives several locations with
14 arrests on Plaintiff's 4.

15 Q It has William and Beaver Street.

16 A Okay. William and Beaver Street 15
17 arrests for disorderly conduct, resisting for
18 locking arms and blocking the sidewalk and the
19 street.

20 Q Does seeing that language refresh your own
21 independent recollection of any events of the date
22 of the incident?

23 A No, it does not.

24 Q Did please move onto the next document.

25 A This is Plaintiff's 10.

1 PAPOLA

2 Q Yes. Thank you.

3 A Okay. I reviewed Plaintiff's 10.

4 Q Did reviewing Plaintiff's 10 refresh you
5 own independent recollection about anything related
6 to the date of the incident?

7 A No, it didn't.

8 MR. OLIVER: Thank you. I'll take those
9 three documents back.

10 Q Do you remember about what time you
11 arrived at the intersection of Beaver and William
12 Street?

13 A No.

14 Q Do you remember what the scene was when
15 you arrived initially on the date of the incident at
16 that location?

17 A No, I don't recall.

18 Q When you arrived at that location, were
19 there other police officers present?

20 A I don't recall.

21 Q When you arrived at that location, were
22 there people who you perceived to be protesters
23 present?

24 A Yes.

25 Q Please describe for me what you observed

1 PAPOLA

2 with respect to protesters when you arrived at the
3 scene.

4 A It was -- like I said, it was a large
5 crowd. I don't know the exact size. They were
6 blocking the street and they were blocking
7 sidewalks.

8 MR. OLIVER: I'm going to put in front of
9 you Downes 3 and Downes 4. These are two
10 Google maps of the intersection of William and
11 Beaver.

12 Q Can you point to me on Downes 3 where you
13 were when you first arrived at the location?

14 A No.

15 Q So you don't know if you were on Beaver
16 Street or William Street?

17 A I don't remember where I was standing.

18 Q So you don't know if you were --

19 A No. If I was on Beaver or if I was on
20 William or if I was in the middle, I couldn't tell
21 you exactly where I was.

22 Q Were police blocking the roadway --

23 MR. OLIVER: Withdrawn.

24 Q Were police in the roadway on either
25 William or Beaver Street when you arrived at the

1 PAPOLA

2 location?

3 A I don't recall.

4 Q You saw on the video that there were
5 police in the roadway near where you were giving
6 orders, right?

7 A On the video that I --

8 Q Yes.

9 A Yes. I saw it on the video.

10 Q Referring to Downes 3, can you point to me
11 where you were when you gave the orders that can be
12 seen on the video you reviewed?

13 A No. Like I said, I can't give you an
14 exact where I was in relation. I don't know if I
15 was on the corner, if I was in the middle. I don't
16 remember where I was standing.

17 Q Earlier I had asked you where you were
18 standing when you first got there and in sum and
19 substance I believe you testified that you couldn't
20 remember or you weren't sure where you were standing
21 when you first got there. You also cannot sitting
22 here today say where you were on either of these
23 maps when you gave the orders that are shown on the
24 video?

25 A Right.

1 PAPOLA

2 Q How much time elapsed between the moment
3 you arrived at the location and the moment that you
4 were directed to give the orders?

5 A I don't recall.

6 Q Was it more than a minute?

7 A Was it more than a minute?

8 Q Yes.

9 A I don't -- I don't remember. I think so
10 but I can't -- I don't recall.

11 Q What else do you recall aside from what
12 you've already testified to regarding the conditions
13 at the intersection prior to the moment that you
14 gave the orders depicted on the video?

15 A I don't understand the question.

16 Q Is there anything else that you can tell
17 me about the conditions at the location between the
18 time you arrived at the location and the time you
19 were directed to give orders?

20 A There's nothing that -- no. I don't
21 recall anything else.

22 Q Are you familiar with the Beaver and
23 William Street area?

24 A Was I -- am I familiar with it now?

25 MR. OLIVER: I'll withdraw the question

1 PAPOLA

2 because you're right.

3 Q On the date of the incident would you say
4 that you were familiar with the William and Beaver
5 Street area?

6 A Was I familiar that day? No, I wasn't
7 familiar with it, no.

8 Q On that day did you have any personal
9 knowledge about the vehicular or pedestrian traffic
10 conditions that would normally be present at the
11 location?

12 A No.

13 Q Did you have any way of knowing if the
14 vehicular or pedestrian traffic conditions at the
15 location were any different than they would have
16 been on any other day?

17 A No.

18 Q When you say you observed a large crowd,
19 did the large crowd stay the same the entire time
20 you were observing what you perceived to be a crowd?

21 A No. It was always growing or shrinking
22 depending on what way they decided to march or what
23 they wanted to do. There wasn't a constant.

24 Q So people were coming and going from what
25 you referred to as a crowd, right?

1 PAPOLA

2 A (Witness nods head.)

3 Q Yes?

4 A Yes. I'm sorry.

5 Q It's fine.

6 I believe you testified earlier that the
7 crowd was blocking the street and was blocking
8 people from getting into buildings; is that --

9 A Yes, I did testify.

10 Q Were police also blocking the street?

11 A Were the police blocking the street?

12 Q Yes.

13 A I don't recall.

14 Q Tell me what you saw with respect to
15 people blocking people from getting into buildings.

16 A From what I can recall they were blocking
17 entrances to buildings so people couldn't get to
18 their jobs or appointments or whatever they had to
19 do down there.

20 Q Did you see that occur on William and
21 Beaver Street?

22 A At that exact intersection, I don't
23 recall.

24 Q Did you see people who you perceived to be
25 protesters blocking the sidewalks at that

1 PAPOLA

2 intersection, if you remember?

3 A I don't recall.

4 Q Have you told me everything that you can
5 remember about the reasons that you gave the orders
6 that can be seen on the video?

7 MS. ROBINSON: Objection.

8 You can answer.

9 A I'm sorry. Can you repeat the question?

10 MR. OLIVER: Can you read the question
11 back?

12 (The requested portion was read.)

13 MR. OLIVER: I'll stick with the question
14 if you understand it.

15 A I believe -- I think I understand it. I'm
16 sorry. Can you ...

17 Q I can rephrase it if you want.

18 A Please.

19 Q You've given me some reasons why you gave
20 the dispersal orders that can be seen on the video,
21 correct?

22 A Correct, yes.

23 Q One of those reasons was because a
24 superior told you to give disperse orders, correct?

25 A Correct.

1 PAPOLA

2 Q Have you now told me or testified to all
3 of the reasons you can remember sitting here today
4 why you gave those orders?

5 A Everything I can remember, yes.

6 Q Is there anything that you can think of
7 that might help you refresh your memory on that
8 topic?

9 A No.

10 Q How many orders did you give?

11 A I don't recall. I'd have to look at that
12 video again. I think I only said them once.

13 Q How much time elapsed between the end of
14 the order and the first arrest for violating the
15 order?

16 A I don't recall.

17 Q In any of your training that you
18 remember --

19 MR. OLIVER: Off the record.

20 (A discussion was held off the record.)

21 Q In any of the training that you received
22 regarding disorder control or policing First
23 Amendment assemblies did you receive any training
24 regarding how much time to give people to comply
25 with dispersal orders?

1 PAPOLA

2 A I don't recall.

3 Q Just to go back, you also I think earlier
4 testified that what you called the large crowd was
5 unruly and rowdy at that location?

6 A Yes.

7 Q Can you describe for me what you remember
8 that led you to say that?

9 A Screaming, blowing whistles, the chanting.
10 I can't remember the exact chant. That's basically
11 what I can remember.

12 Q Were the orders that you gave orders to
13 leave the area, if you remember?

14 A Actually if I could look at the -- well,
15 I'd have to look at the video again. I don't recall
16 if there were orders to leave the area or orders to
17 not block the street and the sidewalk.

18 Q Sitting here today do you know if prior to
19 any orders to disperse or arrest warnings police at
20 the location gave protesters the option to remain in
21 the area in like a demonstration zone or something
22 like that that did not obstruct traffic on the
23 roadway?

24 A I don't recall.

25 Q You know what I mean by like a

1 PAPOLA

2 demonstration zone?

3 A A pen.

4 Q Yeah, like a pen. Right.

5 Have you been in situations before at the
6 task force or the DCU where the police gave
7 protesters an area in the roadway that's penned in
8 or on the sidewalk that's penned in so that they
9 could have a demonstration in a particular area
10 without causing undue disruptions of traffic?

11 MS. ROBINSON: Objection.

12 You can answer.

13 A We would never -- I don't recall but from
14 what I remember from training, we would never give
15 them in a street just for their safety. Other than
16 that PD -- NYPD always values First Amendment
17 freedoms and protections and we would give people a
18 chance to voice their displeasure or their protest.
19 But we would never tolerate taking over a street or
20 a sidewalk or anything like that.

21 Q I hear what you're saying but I just want
22 to make a little bit of a clearer record.

23 In your experience as a police officer
24 were there instances where the police department
25 rather than directing protesters to stop their

1 PAPOLA

2 protest and leave the area the department instead
3 offered them the option of continuing their protest
4 but just in a smaller or different area than they
5 initially took up?

6 A To my recollection, no.

7 Q When you gave the orders on the video,
8 what did you use to communicate the orders?

9 A A little portable LRAD device.

10 Q Do you know the model number?

11 A No.

12 Q If I tell you 100 X is a handheld portable
13 version and the 500 X is the vehicle-mounted bigger
14 version, did you have a handheld version or the
15 vehicle-mounted version?

16 A No. I had a handheld version that day.

17 Q Did you wear earplugs when you used the
18 LRAD?

19 A No.

20 Q Before the date of the incident were you
21 trained at all in using the LRAD?

22 A Yes.

23 Q What training did you receive?

24 A Just training at the DCU headquarters how
25 to make the announcements. We used it basically as

1 PAPOLA

2 an address system.

3 Q Do you know when you received that
4 training?

5 A I don't remember exactly when I was there.

6 Q Are you sure that you received that
7 training before the date of the incident?

8 A Yes.

9 Q You are?

10 A Yes.

11 Q Who conducted the training?

12 A I don't remember who conducted. I know we
13 had a representative from LRAD that came to the
14 headquarters one time. I don't remember names or
15 exact dates.

16 Q Do you remember what year that was?

17 A It was 2011.

18 Q Who conducted the training that you
19 received before the date of the incident?

20 A I don't recall.

21 Q Did Captain Raganella conduct the
22 training?

23 A I don't recall.

24 Q Do you know who Erik Green is, E-R-I-K
25 G-R-E-E-N?

1 PAPOLA

2 A Yeah. He was an officer that was assigned
3 to the disorder control unit.

4 Q Do you know if he conducted or had
5 anything to do with the training?

6 A Not that I recall.

7 Q Do you know who Lieutenant Frank
8 G-E-S-A-U-L-D-I is?

9 A He was assigned there after I left.

10 Q So you don't know if he was involved in
11 the training you referred to?

12 A (Witness shakes head.)

13 Q Do you know who Sergeant Stuart,
14 S-T-U-A-R-T, Wohl, W-O-H-L, is?

15 A Nope.

16 Q What else was included in the training
17 that you remember?

18 MS. ROBINSON: Objection.

19 You can answer.

20 A What else was included in the training?

21 Q That you remember.

22 A That we did not use the LRAD as a --
23 what's the right words? We just use the LRAD to
24 broadcast messages to the crowd. That was it.

25 Q Were you trained in sum and substance not

1 PAPOLA

2 to use the LRAD as a weapon?

3 A Yes.

4 Q Were you trained to wear earplugs when
5 using the LRAD?

6 A No, not that I recall.

7 Q Were you trained not to operate the --
8 MR. OLIVER: Withdrawn.

9 Q Were you given any training about safe
10 distances at which to operate the LRAD?

11 A I don't recall.

12 Q Were you given any training regarding any
13 prohibition on using the LRAD 100 X at a distance
14 closer than 10 feet?

15 A I don't recall that.

16 Q Were you given any training regarding the
17 use of, we can call it, the warning tone on the
18 LRAD?

19 A Like that warbling tone?

20 Q Yeah, like the chirping.

21 A I honestly don't recall how we were
22 trained with that one. All I know is that we never
23 set the volume where it could hurt a person and we
24 never directed it at anybody.

25 Q When you say you never set the volume at a

1 PAPOLA

2 level that could hurt a person, what do you mean?

3 A That would cause discomfort or pain.

4 Q How would you know what volume would cause
5 discomfort or pain?

6 A I don't.

7 Q The back of the LRAD that you were
8 operating on the date of the incident, did it have a
9 little chart on it, like a picture?

10 A I don't remember. I wasn't holding it. I
11 was only holding the microphone so I --

12 Q Who was holding it?

13 A Captain Raganella.

14 Q Was Captain Raganella controlling the
15 volume of the device?

16 A I don't recall.

17 Q On the video that you saw do you remember
18 hearing that chirping noise we were talking about?

19 A Yes. I heard the chirping noise we were
20 talking about towards the end.

21 Q Did you deploy that noise?

22 A Did I?

23 Q Yes.

24 A I had no -- I had just the microphone.

25 Q So that was Captain Raganella who deployed

1 PAPOLA

2 that --

3 A That would have to --

4 Q -- tone?

5 A Yes.

6 Q Did you have a blow horn at that location?

7 A I don't recall.

8 MR. OLIVER: I'll follow up in writing,
9 and we'll see what you make of it, but I'll
10 call for production of any training materials
11 that were used in training that was just
12 mentioned.

13 MS. ROBINSON: Noted.

14 Q When the chirping noise was used on the
15 date of the incident, did you see any reaction from
16 the protesters that you remember?

17 A Not that I recall.

18 Q Sitting here today you couldn't tell me if
19 the protesters were surprised?

20 A No, I couldn't tell you that.

21 Q After you gave the orders through the LRAD
22 who made the decision to, if you know, to make
23 arrests at the location?

24 A I don't know.

25 Q Before you gave the orders over the LRAD

1 PAPOLA

2 did you see any protesters sitting down at the
3 location?

4 A I don't recall.

5 Q Before you gave the orders through the
6 LRAD did you see any protesters linking arms at the
7 location?

8 A I don't recall.

9 Q After you used the LRAD did you see any
10 protesters linking arms at the location?

11 A I don't recall.

12 Q After you used the LRAD did you see any
13 people sitting down at the location?

14 A I don't recall.

15 Q After you used the LRAD did you have any
16 involvement in arrests at the location?

17 A No.

18 Q And you had no involvement in arrest
19 processing --

20 A No.

21 Q -- relating to the incident?

22 Do you remember there being people with
23 press passes and cameras present at the location
24 when you gave the orders?

25 A I think so. There was a lot of

1 PAPOLA

2 independent, so a lot of people didn't have press
3 passes.

4 Q Understood.

5 So you remember seeing numerous people
6 with cameras and cell phones?

7 A Yes.

8 Q At the location, right?

9 A (Witness nods head.)

10 Q Sorry. You have to answer verbally.

11 A I'm sorry. Yes.

12 Q When you gave the estimate of the large
13 crowd at the location, did you include those people
14 in your count of the crowd?

15 A I don't recall.

16 Q Based on your understanding of NYPD
17 training and policy when dispersal orders are given
18 to a perceived crowd, does the department have any
19 obligation to make any efforts to distinguish
20 between protesters and bystanders?

21 MS. ROBINSON: Objection.

22 You can answer.

23 A I don't recall.

24 Q What else aside from what you've already
25 testified to do you recall about the training that

1 PAPOLA

2 you received from the department regarding police
3 First Amendment activities?

4 A Nothing else.

5 Q Have you received any training regarding
6 the disorderly conduct provisions of the Penal Law,
7 if you remember?

8 A What kind of training? Like can you
9 clarify?

10 Q Sure. First of all is there any training
11 regarding disorderly conduct that you can remember
12 having --

13 A Well we're trained in law class in the
14 academy in the statute and just, you know, you have
15 to be able to articulate what they're doing and
16 which subdivision of the statute you're actually
17 enforcing. Other than that that's it.

18 Q At the academy were you trained with the
19 recruit training manual?

20 A Oh yeah. We have the recruit training
21 manual.

22 Q And you also have the police student
23 guide?

24 A We had that and the patrol guide.

25 Q And the patrol guide?

1 PAPOLA

2 A Yes.

3 Q And then at some point were you also
4 trained in the disorder control guidelines?

5 A The disorder control guidelines? Well
6 when I got to task force, that's when I started
7 getting into the disorder control guidelines, yes.

8 Q Lines, wedges?

9 A Lines, wedges.

10 Q How to carry a prisoner?

11 A Yeah, how to remove a -- the arrest team,
12 that's how they, you know, lines, wedges, how to
13 break up the crowd, separate into smaller.

14 Q So aside from the training that we just
15 discussed and other training that you've testified
16 about during the deposition is there any other
17 training that you can think of that you received
18 relating to disorder control or policing First
19 Amendment assemblies?

20 A Not that I can think of.

21 Q With respect to the disorderly conduct
22 training that you received, you're familiar with
23 Subsection 5 of Disorderly Conduct?

24 A It's been a long time since I reviewed
25 that statute. I couldn't tell you what it says

1 PAPOLA

2 right now.

3 Q Are you familiar generally with the
4 provision of the Disorderly Conduct statute that
5 prohibits blocking vehicular or pedestrian traffic?

6 A Yes. I was familiar with that at the
7 time.

8 Q Did you receive any training that you can
9 recall regarding what constitutes a significant
10 enough blockage of traffic to give rise to probable
11 cause to arrest?

12 A No. I don't recall.

13 Q You're familiar with Subsection 6 of
14 Disorderly Conduct?

15 A Can you refresh my memory?

16 Q I will absolutely if you need that.

17 Subsection 6 will represent to you
18 criminalizes refusal to comply with the lawful
19 dispersal order when gathering with two or more
20 people.

21 Are you generally familiar with that?

22 A Generally familiar with that, yes.

23 Q I might have covered this before so I
24 apologize if I did: Did you receive any training
25 regarding what constitutes a reasonable time to

1 PAPOLA

2 comply with orders to disperse?

3 A Key word is reasonable. We were never
4 given like a -- what would be a reasonable time.

5 Q Did you receive any training in
6 recommended or preferred substance of a dispersal
7 order or an arrest warning?

8 A Not that I recall.

9 Q Were you trained at some point in the --
10 MR. OLIVER: Withdrawn.

11 Q Were you trained at some point regarding
12 giving the warnings on the card that you testified
13 about?

14 A Was I trained in that?

15 Q Yes.

16 A Not that I recall. That was just a
17 standard, so we would always be consistent. That's
18 why we read it off the card.

19 Q Were you trained to do that?

20 A Not that I recall.

21 Q In connection with policing the RNC do you
22 remember ever receiving a document called the RNC
23 Legal Guidelines?

24 A That's 13 years ago.

25 Q I know. I take it you don't?

1 PAPOLA

2 A I don't remember.

3 MR. OLIVER: Give me one second.

4 MS. ROBINSON: Can we take a break if you
5 don't mind?

6 MR. OLIVER: That's fine.

7 (A recess was held.)

8 Q Just a few more questions before we go to
9 the video. Sitting here today do you know if on the
10 date of the incident disorderly conduct was a
11 summons-eligible offense?

12 A I believe it was but I'll qualify that
13 with there's stipulation s with whether or not
14 you're eligible to receive a summons.

15 Q Right. Like if you have a warrant, you
16 can't get a summons for example?

17 A Yes.

18 Q But assuming all other things --

19 A Assuming all other things equal, it is a
20 summonsable offense.

21 Q Same question but with respect to DAT
22 release. I can rephrase the question if you want.

23 A No. I understand -- I think I understand
24 what you're trying to say. Same thing,
25 notwithstanding summonsable offense. I don't

1 PAPOLA

2 know -- like I said, I had nothing to do with
3 arrests that day. I can't tell you whether there
4 were or were not summons or DAT.

5 Q So you can't tell me sitting here today
6 who determined whether they would --

7 A No.

8 Q -- be released with a summons, with a DAT,
9 something else?

10 A No, I can't.

11 Q Thank you.

12 How long does it usually take to release
13 someone with a discon summons?

14 A It all depends on how long it takes for
15 the computerized checks to come back.

16 Q On average based on your experience on the
17 job how long would you say it would take to process
18 someone for a discon summons?

19 MS. ROBINSON: Objection.

20 You can answer.

21 A For a summons, maybe an hour.

22 Q Same question but for a DAT discon?

23 A Those take longer. On average I'd say
24 four hours.

25 MR. OLIVER: Now I'm going to show you a

1 PAPOLA

2 video clip. It is Rivera Number 340 or record
3 340. If you will forgive me, I usually come on
4 the other side and sort of crouch between you
5 your counsel.

6 I'm going to start it from the beginning.
7 I'll pause it after 20 or 30 seconds. My first
8 question is really going to be is this a video
9 that you reviewed to prepare for the
10 deposition?

11 (Whereupon video is played for the
12 witness.)

13 MR. OLIVER: I'm pausing it at 16 seconds
14 in.

15 Q You see yourself in --

16 A Yes.

17 Q -- this frame, right?

18 You just said "my name," right?

19 A Yes, I did.

20 Q I know we're only like 15 seconds in but
21 can you tell already if this is a video that you
22 watched to prepare for the deposition?

23 A I reviewed this video, yes.

24 Q Do you remember how much of this video you
25 reviewed?

1 PAPOLA

2 A I don't remember.

3 MR. OLIVER: I'm going to keep playing.

4 Q If you could please tell me as you're
5 watching this now if you recognize any fellow
6 officers whose names you know aside from yourself
7 and Captain Raganella, okay?

8 A Mm-hmm.

9 MR. OLIVER: Continuing the video
10 beginning at 16 seconds in.

11 (Whereupon video is continued for the
12 witness.)

13 MR. OLIVER: I'm pausing at a minute and
14 two seconds in.

15 Q Did you see yourself just appear to be
16 saying something to a fellow officer?

17 A That was the chief. I saw the star on his
18 jacket.

19 Q Do you know which chief that was?

20 A No, I don't remember who that was.

21 Q Do you remember what you were saying?

22 A No.

23 Q Do you remember what the chief said to
24 you?

25 A Not a clue.

1 PAPOLA

2 MR. OLIVER: Continuing from a minute and
3 three seconds.

4 (Whereupon video is continued for the
5 witness.)

6 MR. OLIVER: I'm pausing it at a minute
7 and 19 seconds in.

8 Q Do you know how many feet there are
9 between where you're standing in the frame of the
10 video and where the nearest protester in front of
11 you is standing?

12 A From looking at this I can't see. I
13 couldn't estimate.

14 MR. OLIVER: Fair enough.

15 Continuing at one minute, 19.

16 (Whereupon video is continued for the
17 witness.)

18 MR. OLIVER: I'm pausing at a minute and
19 53 seconds in.

20 Q Is that your voice that said I'm ordering
21 your arrests?

22 A Yes.

23 Q Why did you give that order?

24 A The -- that was the next thing on the card
25 from what I can recall. And that's what I was

1 PAPOLA

2 ordered to do by my higher-up boss than myself or
3 actually Captain Raganella.

4 Q Having just viewed this video if I put the
5 maps that I showed you earlier back in front of you,
6 would you be able to show me on the maps where you
7 were standing?

8 A I don't know. I couldn't tell you where
9 exactly in the intersection I was with this, even
10 with the map.

11 Q You're sure?

12 A Yes.

13 MR. OLIVER: I won't show them to you
14 then.

15 Now we're a minute and 53 second in.

16 Q When you viewed the video to prepare for
17 the deposition, did you review this video up until
18 this point?

19 A Yeah. I remember the crowd -- now seeing
20 this I can remember the crowd that I had seen from
21 the video.

22 MR. OLIVER: Okay. I'm playing it at a
23 minute and 53 seconds in.

24 (Whereupon video is continued for the
25 witness.)

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1 PAPOLA

2 MR. OLIVER: I've stopped it at two
3 minutes, 22 seconds in.

4 Q Do you know how much more of this video
5 you watched to prepare for the deposition?

6 A I don't remember.

7 Q I'm just going to keep playing and tell me
8 when you see a part of the video that you think you
9 did not view, okay?

10 A Okay.

11 (Whereupon video is continued for the
12 witness.)

13 THE WITNESS: I don't remember that part.
14 I can tell you that.

15 MR. OLIVER: We're about around 3 minutes
16 45 seconds.

17 (Continued on next page for jurat.)
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Q Did reviewing the video that we just
watched refresh your recollection about anything
relating to the date of the incident?

A Nothing that I haven't already testified
to.

MR. OLIVER: I don't have any further
questions.

MS. ROBINSON: I have no questions.

MR. OLIVER: Thank you.

(Time noted: 12:01 p.m.)

LAWRENCE PAPOLA

Subscribed and sworn to

before me on this _____ day

of _____, 2017.

NOTARY PUBLIC

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PORTION OF TRANSCRIPT DEEMED CONFIDENTIAL

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C E R T I F I C A T I O N

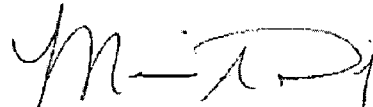
I, MELISSA A. DIAZ, a Notary Public in and for the State of New York, do hereby certify:

THAT the witness whose testimony is hereinbefore set forth, was duly sworn by me; and

THAT the within transcript is a true record of the testimony given by said witness. I further certify that I am not related, either by blood or marriage, to any of the parties to this action; and

THAT I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of September, 2017.



MELISSA A. DIAZ

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and
(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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